

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

ART SHY, et al.

Plaintiffs,

v.

NAVISTAR INTERNATIONAL
CORPORATIONAL, et al.

Defendants.

Case No. C-3-92-333
Judge Walter Herbert Rice

SUPPLEMENTAL BENEFIT
COMMITTEE OF THE NAVISTAR
INTERNATIONAL TRANSPORTATION
CORP. RETIREE SUPPLEMENTAL
BENEFIT PROGRAM,

Intervenor-Plaintiff,

v.

NAVISTAR INTERNATIONAL
CORPORATION,

Defendant.

**REPLY OF THE SUPPLEMENTAL BENEFIT COMMITTEE
OF THE NAVISTAR INTERNATIONAL TRANSPORTATION CORPORATION
RETIREE SUPPLEMENTAL BENEFIT PROGRAM
IN SUPPORT OF ITS MOTION TO INTERVENE**

Navistar's Response to the Committee's Motion to Intervene shows that it prefers the expense and delay of litigation to a good faith resolution of our differences. By basing its opposition to the Motion on the theory that the Committee must initiate a new action in order to enforce its right to profit-sharing information, Navistar reveals both its

aversion to this Court and its disdain for the agreement it made. For the Settlement Agreement unambiguously provides that "[t]his Court retains *exclusive* jurisdiction to resolve *any* disputes relating to or arising out of or in connection with the enforcement . . . of [the] Settlement Agreement;" and Navistar "*expressly and irrevocably* submits to the jurisdiction of *this* Court in connection with *any* proceedings in connection with the enforcement . . . of the Settlement Agreement. *See* Section 15.4 of the Settlement Agreement (emphasis supplied).

The Committee urges the Court to grant its Motion to Intervene (Dkt. 394). The Committee also urges the Court to grant its Motion to Enforce (Dkt. 395) on the ground that no opposition has been filed.

Dated: April 27, 2012

Respectfully Submitted:

/s/ Edward A. Scallet

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CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of April, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorneys of record:

/s/ Edward A. Scallet
Edward A. Scallet, Trial Attorney